

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
A.W. FINANCIAL SERVICES, S.A., as successor :
in interest to TERTIAIRE INVESTISSEMENT, :
S.A., :
:
Plaintiff, :
:
- against - : 07 CIV 8491 (SHS) (RLE)
:
EMPIRE RESOURCES, INC., AMERICAN :
STOCK TRANSFER & TRUST COMPANY, :
and AFFILIATED COMPUTER SERVICES, INC., :
:
Defendants. :
:
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NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law and exhibits thereto, and all prior pleadings and proceedings heretofore had herein, defendant Empire Resources, Inc. ("Empire") will move this Court, before the Honorable Sidney H. Stein, United States District Judge, Southern District of New York, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Room 1010, New York, New York, on a date and at a time to be set by the Court, for an order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing plaintiff A.W. Financial Services, S.A.'s Amended Complaint as against Empire with prejudice and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York
Jan. 13, 2010

_____/s/
Richard L. Levine (RL-4871)
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